

SPECIAL SECOND DIVISION

[CA-G.R. CV NO. 94726, March 13, 2015]

NATIONAL POWER CORPORATION, PLAINTIFF-APPELLANT, VS. SPOUSES PRIMITIVA GENER & MARCOS GUMASING, SPOUSES ESPIRIDION & LOURDES POLICARPIO, SPOUSES ALFREDO & GERTUDES MATEO, HEIRS OF LUCIA NIETO REPRESENTED BY PERFECTO LEANG AND DOLORES LEANG-HERRERA, GENEROSO AVANCEÑA, SPOUSES ELENA & BIENVENIDO BUENAVENTURA, SPOUSES RUBEN & DOLORES CABRERA, SR., SPOUSES PERFECTO & ERLINDA AVANCEÑA, SPOUSES ANTONIO & ZENAIDA AVANCEÑA, LEONITA AVANCEÑA REPRESENTED BY GENEROSO AVANCEÑA, SPOUSES ANDRES & CRISANTA AVENA, SPOUSES ROGELIO MENDOZA & EVELYN TOMAS, SPOUSES ISAGANI MENDOZA & URSULA SALINO, SPOUSES AVELINO CRUZ & LEONARA MENDOZA, SOLEDAD MENDOZA, ADELA MENDOZA REPRESENTED BY ROGELIO AND ADELA MENDOZA, DEFENDANTS,

ESTATE OF LOURDES S. PASCUAL AND/OR BANCO FILIPINO SAVINGS AND MORTGAGE BANK, EFENDANTS-APPELLEES.

D E C I S I O N

CRUZ, R.A., J.:

THE CASE

This is an appeal under Rule 41 of the Rules of Court assailing the Partial Judgment dated June 24, 2009^[1] of the Regional Trial Court (RTC) of Malolos City, Bulacan, Branch 76 in Civil Case No. 1090-M-1997. The dispositive portion of the Partial Judgment reads, as follows:

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IN VIEW OF THE FOREGOING, judgment is hereby rendered as follows:

1. Ordering the expropriation of Lot (sic) 1823 with a combined total area of 92,524 square meters, described and covered by TCT No. T-129607^[2] in favor of plaintiff National Grid Corporation of the Philippines (sic) for public use or purpose it was intended, free from all liens and encumbrances whatsoever;
2. Ordering the plaintiff to pay the rightful and lawful owner of Lot (sic) 1823 the amount of P4,000.00 per square meter as the just compensation for the taking with legal interest thereon at 6% per annum commencing on 7 September 2007 until finality of this partial judgment, deducting therefrom plaintiff's provisional deposit in the amount of P1,285,177.70 with the Land Bank of the Philippines, NPC Branch, Diliman, Quezon City, under Account Number HYSA-2821-0103-68;
3. Pending the determination of the real owner of the subject property, plaintiff is directed to deposit the amount abovementioned under custodia legis, thru the Land Bank of the Philippines, Malolos City, Bulacan Branch.

Plaintiff is likewise directed to submit in court the bank passbook as proof of deposit of the aforesaid just compensation;

4. Ordering the parties to pay each commissioner the amount of P800.00 per hearing as commissioners' fee;

Let this partial judgment be recorded in the Office of the Register of Deeds of Tabang, Guiguinto, Bulacan.

Furnish copies of this Order (sic) to plaintiff NGCP (sic), Banco Filipino Savings and Mortgage Bank, defendant Lourdes S. Pascual and their respective counsels, the commissioners, as well as the Registry of Deeds of Tabang, Guiguinto, Bulacan

SO ORDERED.

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THE ANTECEDENTS

To construct its Northwestern Luzon Project (San Jose-San Manuel 500 KV T/L Project), the National Power Corporation (NAPOCOR, for short), filed a Complaint for Eminent Domain on December 17, 1999 before the Regional Trial Court (RTC) of Malolos City, Bulacan, Branch 76 against Spouses Primitiva Gener & Marcos Gumasing (*Spouses Gumasing*), Spouses Espiridion & Lourdes Policarpio (*Spouses Policarpio*), Spouses Alfredo & Gertudes Mateo (*Spouses Mateo*), Heirs of Lucia Nieto, represented by Perfecto Leang and Dolores Leang-Herrera (*Heirs of Nieto*), Generoso Avanceña, Spouses Elena & Bienvenido Buenaventura, Spouses Ruben & Dolores Cabrera, Sr., Spouses Perfecto & Erlinda Avanceña, Spouses Antonio & Zenaida Avanceña, Leonita Avanceña, represented by Generoso Avanceña (*Avanceña, et al.*), Spouses Andres & Crisanta Avena (*Spouses Avena*) , Lourdes Pascual (*Pascual*) and Spouses Rogelio Mendoza & Evelyn Tomas, Spouses Isagani Mendoza & Ursula Salino, Spouses Avelino Cruz & Leonara Mendoza, Soledad Mendoza, Adela Mendoza represented By Rogelio and Adela Mendoza (*Mendoza, et al.*), as defendants, docketed as Civil Case No. 1090-M-97.

In its Complaint,^[3] plaintiff alleged the following material facts:

4. Defendants are the registered owners/claimants of parcels of land situated at Brgy. Tigbe, Municipality of Norzagaray, Bgy. (sic) Sapang Putik, Municipality of San Rafael and Bgy. (sic) Dulong Bayan, Municipality of San Jose del Monte, Bgy. (sic) Salangan, Municipality of San Miguel, all in the province of Bulacan particularly described below together with the affected areas sought to be expropriated and the corresponding assessed values to wit:

Owner/Claimant	Lot/ Blk. No.	Tax. Dec. No.	Title No.	Total Area	Area affected in sq. m.	Assessed Value	Classification of Land
1.Sps. Primitiva Gener & Marcos Gumasing	2348-B	05966		10,770	9,309.73	209,468.92	Residential
2.Sps. Espiridion & Lourdes Policarpio	480	96-21011-01608	T-6464 (M)	5,854	1012.08 ^[4]	2,210.36	Riceland
3.Sps. Alfredo & Gertudes Mateo	2404-M-3	05964	T-20539 ^[5]	8,353	6,136.09	138,062 (sic)	Residential
4. Heirs of Lucia Nieto	784	93-21001-01606		17,120	8,944.61	44,137.89	Residential/Agricultural
5. Generoso Avanceña, et al.	831	93-21011-03038	T-24637P (M)	29,499	14,471.50	792,965.73	Residential/Agricultural
6. Sps. Andres & Crisanta Avena	801-B	93-21011-00905	T-120192 (M)	19,818	9,307.50	21,499.11	Residential/Agricultural
7. Lourdes S. Pascual	1823	96-22035-00452	T-98721	92,524	16,500.00	70,927.67	Residential/Agricultural
8. Rogelio Mendoza, et al.	153	93-031-00546	T-33291	34,156	5,048.00	5,906.14	Riceland
				70,729.50	P1,285,177.70		

5. To enable the plaintiff to construct and maintain its Northwestern Luzon Project (San Jose-San Manuel 500 KV T/L Project), a project for public purpose, it is both necessary and urgent for plaintiff to acquire an easement of right of way over the portion of the above parcels of land consisting of a total area of 70,729.50 sq.m., more or less, xxx xxx

6. The above-described parcels of land sought to be expropriated have not been applied to nor (sic) expropriated for any public use and are selected by plaintiff in a manner compatible with the greatest public good and the least private injury;

7. Plaintiff has negotiated with defendants for the acquisition of an easement of right-of-way over the portion of the said parcels of land for the public use as above-stated at a price prescribed by law, but failed to reach an agreement with them notwithstanding the negotiations between the parties;

8. Pursuant to Section 2 of Rule 67 of the New Rules of Civil Procedure, upon the filing in the proper court of the complaint in eminent domain proceedings or any time thereafter, and after due notice to the

defendants, plaintiff shall have the right to take or enter upon the possession of the real properties involved if it deposits with the authorized government depository an amount equivalent to the assessed value of the properties for purposes of taxation to be held by said bank subject to the orders and final disposition of the court;

9. Plaintiff is willing to deposit the total amount of P1,285,177.70 representing the assessed value for taxation purposes of the affected portions of the subject parcels of land as stated in paragraphs 4 and 5 hereof and which (sic) for purposes of the issuance of the corresponding writ of possession, is required to be deposited by plaintiff with the authorized government depository, subject to the orders and final disposition of the Court in accordance with Section 2, Rule 67 of the New Rules of Civil Procedure and in line with the Decision of the Supreme Court in the case of *National Power Corporation vs. (sic) Hon. Enrique T. Jacson, et al.*, G.R. Nos. 94193-99, February 25, 1992.

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Defendants Spouses Gumasing, Spouses Policarpio, Heirs of Lucia Nieto, Avanceña, *et al.*, Spouses Avena and Mendoza, *et al.* filed their respective Answers.^[6]

On March 17, 1998, plaintiff filed an Urgent *Ex-parte* Motion for the Issuance of a Writ of Possession.^[7] In its Order dated May 13, 1998,^[8] the RTC ordered the sheriff to place "the plaintiff in possession of the properties covered by TCT Nos. T-6464 (M), T-20539 (M), T-24637P (M), T-120192 (M) and T-33291; Tax Declaration Nos. 05966 and 93-21001-01606." Subsequently, a Writ of Possession was issued on May 15, 1998.^[9]

On July 27, 1998, the RTC issued an Order,^[10] which directed the sheriff to place the plaintiff in possession of the property covered by TCT No. T-98721 with Tax Declaration No. 96-22035-00452, and a Writ of Possession against Defendant Pascual.^[11]

Thereafter, plaintiff filed a Motion for Issuance of Order of Condemnation dated April 4, 2006^[12] and alleged that, it had entered into compromise agreements with Defendants Spouses Mateo,^[13] Spouses Gumasing,^[14] Spouses Avena,^[15] and Avanceña, *et al.*^[16] and Heirs of Teofila Avanceña which were approved by the RTC in the Partial Judgments dated October 21, 1998,^[17] May 13, 1999,^[18] and July 31, 2000,^[19] and Partial Decision dated April 16, 2001,^[20] respectively, and the same have attained finality; meanwhile the complaint for expropriation against the other defendants, namely, Heirs of Nieto, Spouses Policarpio, Pascual and Mendoza, *et al.*, has not yet passed the first stage, hence, prays for the issuance of an order of condemnation.

Defendant Pascual filed a Comment^[21] alleging that, she concedes the public purpose for which the complaint was filed; plaintiff is liable for damages; the reported amount, which was based on the calculated value of P1,800.00, Philippine Currency, per square meter, paid to her co-defendants is way below the market value; she asserts that her property is a prime lot and lies along the highway which must be taken into account in the determination of the just compensation.

On December 9, 2006, Defendant Pascual filed an *Ex-Parte* Motion^[22] stating that, by way of compromise, she is willing to accept the price of P3,000.00, Philippine Currency, per square meter as just compensation plus legal interest of 6% per annum; a Notice of Lis Pendens was filed in view of the pendency of a Petition for Annulment of Sale at Public Auction involving TCT No. T-98721 of the Registry of Deeds of Bulacan, docketed as Civil Case No. Q-98-33124, before the Regional Trial Court (RTC) of Quezon City, Branch 104.

On January 11, 2007, Defendant Pascual filed an Urgent Motion for Clarification of No. 5 of the Ex-Parte Motion dated December 9, 2006,^[23] reiterating that she has no opposition to the expropriation proceedings filed by the plaintiff and is willing to enter into a compromise agreement but prays for the segregation of the area sought to be expropriated or the area affected, *i.e.* 16,500 sq. m., from the total area of Lot No. 1823, *i.e.* 92,524 sq.m. and a new certificate of title be issued in her name for the remaining area.

On September 7, 2007, the RTC issued an Order^[24] granting plaintiff's motion. The *falla* of the order reads:

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IN VIEW OF THE FOREGOING, an order of condemnation is hereby issued declaring that the plaintiff NAPOCOR, now TRANSCO (sic), has a lawful right to take the subject parcels of land, together with existing improvements thereon, more specifically described as follows:

(a) 1,012.75 square meters of Lot (sic) 480 of Sps. Espiridion and Lourdes Policarpio, containing an area of 5,854 square meters, covered by TCT No. T-6464 (M);

(b) 8,944.61 square meters of Lot (sic) 784 of the Heirs of Lucia Nieto, containing an area of 17,120 meters, covered by Tax Declaration No. 93-21001-01606;

(c) 16,500 square meters of Lot (sic) 1823 of Lourdes S. Pascual, containing an area of 92,524 square meters, covered by TCT No. T-98721; and

for the public use or purpose as stated in the complaint, upon payment of just compensation. Accordingly, in order to ascertain the just compensation, the parties are hereby directed to submit within fifteen (15) days from notice hereof, a list of independent appraisers from which the Court will select three (3) to be appointed as Commissioners pursuant to Section 5, Rule 67, Rules of Court.

In the meantime, the Heirs of Lucia Nieto and Banco Filipino Savings and Mortgage Bank are hereby directed to submit (sic) comment/opposition, within ten (10) days from receipt hereof, relative to their right, claim and/or interest over Lot (sic) 784, containing an area of 17,120 square meters and covered by Tax Declaration No. 93-21001-01606; and Lot (sic) 1823, containing an area of 92,524 square meters and covered by TCT No. T-98721.

SO ORDERED.

In compliance with the Order dated September 7, 2007, plaintiff nominated the following: (1) Provincial Assessor, Province of Bulacan, (2) Appraiser of Land Bank of the Philippines, Malolos City, Bulacan, and (3) the Branch Clerk of Court.^[25] On the other hand, Defendant Lourdes Pascual submitted the Affidavits of Rosalinda Santos,^[26] a resident of Salangan, San Miguel Bulacan, and Emie Pinaroc,^[27] an authorized real estate agent.

After conducting several ocular inspections,^[33] the commissioners submitted their Report on Just Compensation dated January 28, 2009^[34] recommending that the valuation of Lot No. 1823, classified as agricultural, in 1997 is P100.00, Philippine Currency, per square meter, commencing from the time of filing of the complaint. They add that Defendant Pascual should be paid a legal interest at the rate of six percent (6%) per annum to be computed from 1997 until the same shall have been fully paid.

On June 24, 2009, the RTC issued a Partial Judgment^[39] declaring that the valuation of the subject property should not be computed from the date of filing the complaint in 1997 but when the Order of Expropriation was issued, i.e. on September 7, 2007, by way of exception to the general rule as held in the case *Heirs of Mateo Pidacan, et al. v. Air Transportation Office (ATO)*.^[40] It ruled that the recommendations of the commissioners were only advisory and not conclusive upon it. According to the RTC, after taking into consideration the prevailing selling prices of other nearby lots in Barangay Salangan, San Miguel, Bulacan, its high economic value for residential or commercial use and its accessibility to known landmarks such as St. Paul University, Meralco Sub-station, Iglesia Ni Cristo Chapel, Rosemoor Village and San Miguel District Hospital, just compensation for the Lot No. 1823 is in the

amount of P4,000.00, Philippine Currency, per square meter. Moreover, since the taking, the whole portion of Lot No. 1823 was rendered unusable as the tower and high voltage transmission lines built thereon continuously pose great threat and danger to the lives of the people.

Thus, it decreed that:

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IN VIEW OF THE FOREGOING, judgment is hereby rendered as follows:

1. Ordering the expropriation of Lot (sic) 1823 with a combined total area of 92,524 square meters, described and covered by TCT No. T-129607^[41] in favor of plaintiff National Grid Corporation of the Philippines (sic) for public use or purpose it was intended, free from all liens and encumbrances whatsoever;
2. Ordering the plaintiff to pay the rightful and lawful owner of Lot (sic) 1823 the amount of P4,000.00 per square meter as the just compensation for the taking with legal interest thereon at 6% per annum commencing on 7 September 2007 until finality of this partial judgment, deducting therefrom plaintiff's provisional deposit in the amount of P1,285,177.70 with the Land Bank of the Philippines, NPC Branch, Diliman, Quezon City, under Account Number HYSA-2821-0103-68;
3. Pending the determination of the real owner of the subject property, plaintiff is directed to deposit the amount abovementioned under custodia legis, thru the Land Bank of the Philippines, Malolos City, Bulacan Branch. Plaintiff is likewise directed to submit in court the bank passbook as proof of deposit of the aforesaid just compensation;
4. Ordering the parties to pay each commissioner the amount of P800.00 per hearing as commissioners' fee;

Let this partial judgment be recorded in the Office of the Register of Deeds of Tabang, Guiguinto, Bulacan.

Furnish copies of this Order (sic) to plaintiff NGCP (sic), Banco Filipino Savings and Mortgage Bank, defendant Lourdes S. Pascual and their respective counsels, the commissioners, as well as the Registry of Deeds of Tabang, Guiguinto, Bulacan

SO ORDERED.

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Unsatisfied with the partial judgment, plaintiff filed a Motion for Reconsideration^[42] arguing that the case of *Heirs of Mateo Pidacan et al., v. Air Transportation* is inapplicable. Moreover, the valuation of the property subject of expropriation should be computed from the date of taking or filing of the complaint, whichever is earlier. Defendant Pascual also filed a Motion to Amend Partial Judgment^[43] and Supplemental Motion to Amend Partial Judgment.^[44]

The RTC, in its Order dated November 9, 2009,^[45] denied the motions filed by the plaintiff and Defendant Lourdes Pascual. The *fallo* of the Order reads, as follows:

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WHEREFORE, premises considered, plaintiff's motion for reconsideration and defendant Lourdes Pascual's motion to amend partial judgment and supplemental motion to amend partial judgment with leave of court are hereby **DENIED** for lack of merit.

Furnish copies of this Order to plaintiff National Transmission Corporation (sic), Banco Filipino Savings and Mortgage Bank, defendant Lourdes S. Pascual and their respective counsels, as well as the Registry of Deeds of Tabang, Guiguinto, Bulacan.

SO ORDERED.

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Hence, this appeal.

THE ASSIGNED ERRORS

Plaintiff, now appellant before Us, ascribes the following errors that: